

**Statement
Before the Taxation Committee
Of the Montana House of Representatives
In Support of Senate Bill 240
April 11, 2013**

EXHIBIT 1
DATE 4-12-13
HB SB240

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During the hearing on SB 240 before this Committee on April 11, 2013, Rep. Kerry White asked that I provide the Committee with the list of pending and developing regulations to which I referred in my testimony. Please see the following list with brief explanations.

- **Mercury and Air Toxics Standards** – The USEPA issued a final rule on December 21, 2011 setting rigorous standards for control of mercury and other air toxics for power plants of 25 MW or greater. Power plants have 4 years to comply with the standards. Montana's power plants are already in compliance with the state's mercury rules that were put into place in 2006, but the federal standards include pollutants not covered by the state rule, including arsenic, chromium, nickel, and acid gases.
- **Regional Haze Federal Implementation Plan** – The USEPA issued a final rule on September 18, 2012 to require several Montana industries to reduce emissions for the purpose of improving visibility. The EPA action was in response to a consent decree agreement between the agency and environmental groups who filed suit. The regulation initially affects PPL Montana, Ash Grove Cement, Holcim, Devon Energy, Columbia Falls Aluminum and Smurfit Stone. However, if Montana is unable to demonstrate reasonable progress on the standard within a certain timeframe, other industries including oil and gas, agriculture and others could be impacted. TSRIA testified at a hearing on the plan that it does not address issues of public health, but rather seeks to make visibility improvements in Montana that are not perceptible—even with installation of expensive emissions control equipment.
- **SO₂ National Ambient Air Quality Standards** – The USEPA is poised to designate Yellowstone County as nonattainment for emissions of SO₂ (sulfur dioxide) after emissions exceeded the standards in 2010. The impacted industries and MDEQ are working together to try to secure an "unclassifiable" designation rather than "nonattainment" to ensure credit is given for the significant emissions reductions already achieved by industries and to provide opportunity for future economic growth in the area.
- **PM 2.5 National Ambient Air Quality Standards** – On January 15, 2013, the USEPA issued a final rule to require emission reductions to for fine particle pollution (particulate matter sized 2.5 micrograms, including soot).
- **316(b) standards for hydroelectric cooling water intake structures under the Clean Water Act** – The USEPA will finalize rules on June 27, 2013 requiring the location, design, construction and capacity of cooling water intake structures at hydroelectric facilities reflect the best technology available for minimizing adverse impact.

- RCRA standards for management of coal combustion residuals – A coalition of 11 environmental groups sued the USEPA in April 2012 to require the agency to regulate coal combustion residuals (coal ash) as hazardous waste under the Resource Conservation and Recovery Act. Coal ash is currently regulated as nonhazardous under the Act. If the EPA decides to regulate coal ash as hazardous, coal-fired electricity generators would no longer be able to sell ash for beneficial re-use—as it currently does for cement mixing operations. Generators would be required to permit and construct hazardous waste landfills to manage ash. The 2013 Montana Legislature approved SB 364 in anticipation of this situation so coal ash could be regulated under Montana's Solid Waste Management Act, providing for the safe management of ash in existing pond structures and for the continued beneficial re-use of other ash.
- Maximum Achievable Control Technology standards for industrial boilers – On December 20, 2012, the USEPA finalized regulations for large and small industrial boilers to reduce emissions of hazardous air pollutants. The regulation requires installation of control technology, monitoring, work-practice standards and criteria for equipment tune-ups.
- Numeric Nutrient Criteria for effluent – The MDEQ is in the process of working with stakeholders including Montana industries and municipalities to develop standards to reduce effluent of nitrogen and phosphorous from state waters. The regulations could require installation of expensive effluent control technology. Unfortunately, no technology currently exists to adequately and cost-effectively control such effluent.
- Greenhouse Gas – On March 27, 2012 the USEPA issued draft regulations to limit the emissions of carbon dioxide and other greenhouse gases from new power plants. The rule has yet to be finalized but the White House announced Monday, April 8 its intention to do so in 2013. The Administration also mentioned in its announcement it may yet issue greenhouse gas emission standards for existing power plants as well. Technologies to control carbon dioxide and other greenhouse gases from coal-fired power plants are still in the developmental stage and include a steep "energy penalty" at this time. Running the control technologies requires significant (9 to 30%) electricity, reducing the load available to electricity customers.

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